

## **DETAILED ACTION**

### ***Examiner's Amendment***

1. An examiner's amendment to the record appears below. Should the changes and/or additions be unacceptable to applicant, an amendment may be filed as provided by 37 CFR 1.312. To ensure consideration of such an amendment, it MUST be submitted no later than the payment of the issue fee.

Authorization for this examiner's amendment was given in a telephone interview with James LaBarre on 06/30/08. The substance of the interview can be found in the attached interview summary form.

The application has been amended as follows:

#### *Listing of Claims:*

*1-21. (Cancelled)*

*22-27. (Previously Presented)*

*28. (Cancelled)*

*29-34. (Previously Presented)*

*35-40. (Cancelled)*

*41-46. (Previously Presented)*

*47-58. (Cancelled)*

*59. (Currently Amended) A method for producing a color palette which facilitates user selection of colors having a consistent appearance across different computer platforms, comprising the steps of:*

*determining the achromatic colors to be located within a color palette;*  
*arranging all the achromatic colors in one contiguous grouping within the palette;*  
*placing blends of non web-safe chromatic colors in a second contiguous grouping within the palette;*  
*placing web-safe chromatic colors, including blends created from the web- safe chromatic colors, in a third contiguous grouping within the palette; and*  
*storing said palette on a computer-readable ~~medium~~-memory for display and selection of individual colors during the creation of an image on a computer by a user.*

60-68. (Previously Presented)

69. (Cancelled)

70. (Currently Amended) *A method for producing a color palette containing both web-safe colors and non web-safe colors, so as to facilitate user selection of colors having a consistent appearance across different computer platforms, comprising the steps of:*

*placing blends of non web-safe chromatic colors in a first contiguous grouping within a first area on the palette;*

*placing web-safe chromatic colors, including blends created from the web- safe chromatic colors, in a second contiguous grouping within a second area on said palette; and*

*storing said palette on a computer-readable ~~medium~~-memory for display and selection of individual colors during the creation of an image on a computer by a user.*

71-84. (Previously Presented)

***Allowable Subject Matter***

2. Claims 22-27, 29-34, 41-46, 59-68 and 70-84 are allowed.

The following is an examiner's statement of reasons for allowance:

In reference to claims 22 and 41, the prior art of record (Adobe Systems Inc. (Adobe Photoshop 6.0 User Guide for Windows and Macintosh. 2000. Adobe Systems Inc.), Microsoft Word 2000 (Microsoft Corporation. © 1983-1999.) and Beretta (U.S. Patent 5,254,978)) does not explicitly disclose grouping web-safe color blends arranged to form a square wherein the colors are situated on one side of a diagonal of the square horizontally in order of decreasing saturation towards the diagonal and vertically in order of decreasing value towards the diagonal, and the colors in the other side of the diagonal are arranged horizontally decreasing in value towards the diagonal and vertically decreasing in saturation towards the diagonal, in combination with the further limitations of claims 22 and 41 respectively.

In reference to claims 23-27, 29-34 and 42-46, claims 23-27, 29-34 and 42-46 are allowed because they claim dependency upon allowable claims 22 and 41.

In reference to claim 59, the prior art of record (Adobe Systems Inc. (Adobe Photoshop 6.0 User Guide for Windows and Macintosh. 2000. Adobe Systems Inc.), Microsoft Word 2000 (Microsoft Corporation. © 1983-1999.) and Beretta (U.S. Patent 5,254,978)) does not explicitly disclose arranging achromatic colors in one contiguous grouping within a palette, placing blends of non web-safe chromatic colors in a second contiguous grouping within the palette, placing web-safe chromatic colors, including blends created from web-safe chromatic colors in a third contiguous grouping within the palette and storing the palette for display and selection of the individual colors in combination with the further limitations of claim 59.

In reference to claims 60-68, claims 60-68 are allowed because they claim dependency upon allowable claim 59.

In reference to claim 70, the prior art of record (Adobe Systems Inc. (Adobe Photoshop 6.0 User Guide for Windows and Macintosh. 2000. Adobe Systems Inc.), Microsoft Word 2000 (Microsoft Corporation. © 1983-1999.) and Beretta (U.S. Patent 5,254,978)) does not explicitly disclose placing blends of non web-safe chromatic colors in a first contiguous grouping within a first area on a palette and placing web-safe chromatic colors, including blends created from the web-safe chromatic colors in a second contiguous grouping within a second area on the palette, in combination with the further limitations of claim 70.

In reference to claims 71-75, claims 71-75 are allowed because they claim dependency upon allowable claim 70.

In reference to claim 76, the prior art of record (Adobe Systems Inc. (Adobe Photoshop 6.0 User Guide for Windows and Macintosh. 2000. Adobe Systems Inc.), Microsoft Word 2000 (Microsoft Corporation. © 1983-1999.) and Beretta (U.S. Patent 5,254,978)) does not explicitly disclose a display device displaying a color palette which comprises of a first contiguous grouping of non web-safe chromatic colors and a second contiguous grouping of web-safe chromatic colors, including blends created from the web-safe chromatic colors, for selection of such colors in combination with the further limitations of claim 76.

In reference to claims 77-84, claims 77-84 are allowed because they claim dependency upon allowable claim 76.

Any comments considered necessary by applicant must be submitted no later than the payment of the issue fee and, to avoid processing delays, should preferably accompany the issue

fee. Such submissions should be clearly labeled "Comments on Statement of Reasons for Allowance."

### ***Response to Arguments***

3. In regards to the analyzation of claims 22, 59 and 70 in view of 35 USC 101, the Office deems such claims as reciting statutory subject matter as the current practices and procedures of the Office deem the method to at least be tied to another statutory class (such as a particular apparatus and in particular a computer, see the preamble of claims 22, 59 and 70).

4. Applicant's arguments, see pages 12-17 of Applicant's Remarks, filed 05/19/08, with respect to the 35 USC 103 rejection of claims 70-81 have been fully considered and are persuasive. The 35 USC 103 rejection of claims 70-81 has been withdrawn. Applicant's remarks were persuasive in differentiating the definition of non web-safe and web-safe colors versus the interpretation of the Office as per the Adobe reference and Applicant's specification. Therefore, it was found that the combination of Adobe and Beretta does not teach all of the limitations of the claims. A further prior art search has been conducted but has yielded no further applicable prior art. Therefore, the claims are in condition for allowance.

### ***Conclusion***

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Antonio Caschera whose telephone number is (571) 272-7781. The examiner can normally be reached Monday-Thursday and alternate Fridays between 7:00 AM and 4:30 PM.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Kee Tung, can be reached at (571) 272-7794.

**Any response to this action should be mailed to:**

Commissioner of Patents and Trademarks  
Washington, D.C. 20231

**or faxed to:**

**571-273-8300 (Central Fax)**

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the Technology Center 2600 Customer Service Office whose telephone number is (571) 272-2600.

/Antonio A Caschera/

Examiner, Art Unit 2628

Temporary Full Signatory Authority

**7/7/08**